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EXAMINER
VIZVARY, GERALD C

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>*7/21/2008*</u>.
2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>*12-15,17,18,21,22 and 34-49*</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>*12-15, 17, 18, 21, 22 & 34-49*</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>*1/29/2008, 2/29/2008, 6/12/2008, 9/23/2008 & 11/5/2008*</u>.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   In the amendment filed 7/21/2008, the following has occurred: Claims 1-11 have

been cancelled. Claims 12-15, 17, 18, 21 & 22 have been amended. Now, claims 12-15,

17, 18, 21, 22 & 34-49 are presented for examination.

Information Disclosure Statement

2.   The information disclosure statement (IDS) submitted on 1/29/2008, 2/29/2008,

6/12/2008, 9/23/2008 & 11/5/2008 were considered by the examiner.

Claim Objections

3.   Claims 34-49 are objected to under 37 CFR 1.75(c), as being of improper

dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s)

in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 112

4.   The term "a length of time" in claim 1 & 15 is a relative term which renders the

claim indefinite. The term "a length of time" is not defined by the claim, the specification

does not provide a standard for ascertaining the requisite degree, and one of ordinary

skill in the art would not be reasonably apprised of the scope of the invention.

5.   Claims 34-49 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 12-15, 17, 18, 21, 22 & 34-49 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Minton US 6,014,643 in view of Mikurak US 6,606,744 B1.

As per claim 12 (Currently Amended), Minton US 6,014,643 discloses a method ~~for~~

~~avoiding costs associated with trading orders,~~ comprising:

receiving information about storing ~~an~~ a first order, in which the information includes:

at least one parameter of the identifier associated with a trading first order ("If the

security is traded on the individual securities trading network, that information is

denoted under the column labeled RMST. A cusip number for each security is also

provided. A security's cusip number is a unique numerical identifier for a given security."

Minton US 6,014,643, col.10, lines 32-36);

an identity of a market center to which the first order is to be routed ("From the server,

the offer is transmitted to additional data processing systems which are connected to

the communication network. The first user's offer is eventually sent to a second data processing system, where a second individual enters an acceptance to the first user's offer to sell a security. Minton US 6,014,643, col.3, lines 6-11); and

assigning ~~storing~~ a time threshold ~~associated with~~ to the ~~trading~~ first order, in which the time threshold comprises ~~monitoring~~ the length of time ~~the trading order is active with a~~ of the market center less a pre-determined amount of time ~~that is processing the trading order~~ ("The reason this order could not be executed immediately is there would be a $2.00 difference between the lowest price the user was willing to accept for their share of stock and the highest price another user was willing to pay for it. In such cases, these limit orders remain active until they either expire or they are canceled by a user." Minton US 6,014,643, col.9, lines 47-52); and

transmitting ~~communicating a cancel~~ an instruction to cancel ~~for~~ the ~~trading~~ first order ~~in response to determining the timeout~~ ("Cancel order button 422 allows one to cancel a previously entered limit order." Minton US 6,014,643, col.9, lines 12-13);

generating a second order, in which the second order comprises the at least one parameter of the first order; and ("In trading screen 400, limit orders to buy are displayed in buy window 428, and limit orders to sell are displayed in sell window 432. These orders display the user name and user identification number of the user who wishes to buy or sell the security. Also shown is the price and quantity of the security being traded, and any special conditions of the order. As is shown in FIG. 4, buy window 428 contains various limit orders to buy various amounts of General Motors' (GM) stock. Likewise, sell window 432 contains various limit orders to sell various

amounts of GM stock. Field 436 displays the name of the stock currently being traded in

windows 428 and 432." Minton US 6,014,643, col.9, line 58-col. 10, line 2)

Minton US 6,014,643 fails to explicitly teach:

an indication that the market center charges a transaction cost for orders that are

processed after a length of time;

determining a timeout when that the first order has not been processed before the

length of time the trading order is active with the market center equals or exceeds the

time threshold;

routing the second order to the market center.

Mikurak US 6,606,744 B1 teaches: "Use of WAF will normally result in lower usage

costs, decreased transaction costs, more efficient access to electronic information, re-

usability of rights protection and other transaction management implementations,

greatly improved flexibility in the use of secured information, and greater standardization

of tools and processes for electronic transaction management." (Mikurak US 6,606,744

B1 col. 133, lines 31-37), "As another example, a distributor that failed to make

payments and/or report usage information to a content provider might find that their

budget for creating permissions records to distribute the content provider's content to

users, and/or a security budget limiting one or more other aspect of their use of the

provider's content, are not being refreshed by the content provider, once exhausted or

timed-out (for example, at a predetermined date). In these and other cases, the

offended party might decide not to refresh time ageing keys that had "aged out." Such a

use of time aged keys has a similar impact as failing to refresh budgets or time-aged

authorizations." (Mikurak US 6,606,744 B1 col. 208, lines 20-33) and "The system includes integrated Internet Protocol (IP) telephony services allowing a user of a web application to communicate in an audio fashion in-band without having to pick up another telephone. Users can click a button and go to a call center through the network using IP telephony." (Mikurak US 6,606,744 B1 col. 2, lines 60-65)

It would have been obvious to one of ordinary skill in the art at the time of the invention to include a timer, a transaction cost indicator and routing the order as taught by Mikurak US 6,606,744 B1 in the system of Minton US 6,014,643, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 13 (Currently Amended), Minton US 6,014,643 further discloses a method of claim 12, ~~wherein the order identifier comprises an internal order identifier, and~~ further comprising:

<u>calculating the time threshold of</u> ~~storing an external order identifier associated with the~~ <u>first</u> ~~internal~~ order ~~identifier and the trading order;~~

~~communicating an order instruction for the trading order in response to determining the timeout; and assigning a new internal order identifier associated with the order instruction.~~ ("Expiration of order field 628 allows a user to specify when a limit order should expire. Special order field 610 allows one to place special conditions upon the order being entered into buy screen 600." Minton US 6,014,643, col.11, lines 19-22)

As per claim 14 (Currently Amended), Minton US 6,014,643 further discloses a method of claim 12 further comprising, ~~wherein~~ monitoring ~~the length of time~~ a status of the ~~trading~~ first order is ~~active with the market center is initiated in response~~ to ~~receiving an acknowledgment that~~ determine whether the ~~trading~~ first order ~~is active with~~ has been processed by the market center. ("Activation of trade report button 1220 will display a summary of the execution activity in the market created by the user. Finally, monitor markets button 1218 allows a user to monitor other markets they have created." Minton US 6,014,643, col.15, lines 21-24)

As per claim 15 (Currently Amended), Minton US 6,014,643 further discloses a method of claim ~~12~~ 14.

Minton US 6,014,643 fails to explicitly teach that ~~wherein~~ in which the act of monitoring ~~the order identifier comprises an internal order identifier, and~~ further ~~comprising~~ comprises:

using a timer to measure a length of time that ~~storing an external order identifier associated with the internal~~ first order ~~identifier and the trading order~~ is active within the market center; and ("

receiving an indication that ~~a cancel request for the trading order,~~ the length of time that ~~cancel request specifying~~ the ~~external~~ first order is active within the market center equals the time threshold ~~identifier; and~~

~~determining the internal order identifier associated with the specified external order~~
~~identifier; wherein the cancel instruction specifies the determined internal order~~
~~identifier~~.

Mikurak US 6,606,744 B1 teaches "Contemporary fixed length record formats include time point fields recording local time in three (3) second increments where local switch time represents the time of day at a switch. The timepoint fields are used by the network switches, billing center, and other network subsystems. Each subsystem, however, may require the time period for a different use and in a different format, such as in an epoch time format." (Mikurak US 6,606,744 B1 col. 49, lines 14-22) and "The Customer Quality of Service Management Process 1302 encompasses monitoring, managing and reporting of quality of service as defined in Service Descriptions, Service Level Agreements (SLA), and other service-related documents. It includes network performance, but also performance across all of service parameters, e.g., Orders Completed On Time. Outputs of this process are standard (predefined) and exception reports, including; dashboards, performance of a service against an SLA, reports of any developing capacity problems, reports of customer usage patterns, etc." (Mikurak US 6,606,744 B1 col. 45, lines 44-54).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include a timer indicating the length of a transaction as taught by Mikurak US 6,606,744 B1 in the system of Minton US 6,014,643, since the claimed invention is merely a combination of old elements, and in the combination each element merely

would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

16. Cancelled.

As per claim 17 (Currently Amended), Minton US 6,014,643 further discloses a method of claim ~~12~~ 15, ~~wherein~~ in which the timer ~~trading order specifies at least one of a bid request and an offer request for a trading product,~~ begins measuring as soon as the ~~trading~~ first order ~~further specifying a quantity for~~ is routed to the ~~trading product~~ market center. ("Sales data window 430 displays the time, the size, and the price of all orders that have been executed on the individual securities trading network." Minton US 6,014,643 col. 10, lines 12-14)

As per claim 18 (Currently Amended), Minton US 6,014,643 further discloses a method of claim ~~12~~ 14, ~~wherein~~ in which the act of monitoring is performed by a timer ~~time threshold specifies a length of time that is a predetermined amount of time less than the length of time the market center will process the trading order before charging a transaction cost.~~ ("Sales data window 430 displays the time, the size, and the price of all orders that have been executed on the individual securities trading network." Minton US 6,014,643 col. 10, lines 12-14) It is obvious that the timing of the trading network is performed by a timer.

19-20. Cancelled.

As per claim 21 (Currently Amended), Minton US 6,014,643 further discloses a method

of claim 12, ~~wherein~~ in which the status ~~time~~ ~~threshold is further associated with the~~

~~market center that is processing~~ of the ~~trading~~ first order comprises one of:

a pending state 31-35); ("When a user places a sell or buy order, this order will be either

a market order or a limit order. A market order is an order that is able to be executed

immediately. A limit order is an order which cannot be executed immediately due to the

current price of the security and the price at which the order was placed." Minton US

6,014,643 col. 9, lines

a filled state ("Once an order has been executed, a confirmation screen will appear with

the security symbol that was just bought or sold, the number of shares traded, and the

price at which the shares were traded." Minton US 6,014,643 col. 12, lines 50-53);

a cancelled state ("Cancel order button 422 allows one to cancel a previously entered

limit order." Minton US 6,014,643, col.9, lines 12-13); and

a terminated state. ("Bid open/close button 1204 allows the user to temporarily close

their limit order to buy securities. This allows a user to temporarily stop buying the

security, and then begin buying the security when they reactivate bid open/close button

1204." Minton US 6,014,643, col.15, lines 6-10)

As per claim 22 (Currently Amended), Minton US 6,014,643 further discloses a method

of claim 12~~, wherein the order identifier comprises an internal order identifier, and~~

further comprising:

<u>assigning</u> ~~storing~~ an external ~~order~~ identifier ~~associated with the internal order identifier~~

~~and~~ <u>to</u> the ~~trading~~ <u>first</u> order ("In trading screen 400, limit orders to buy are displayed in

buy window 428, and limit orders to sell are displayed in sell window 432. These orders

display the user name and user identification number of the user who wishes to buy or

sell the security. Also shown is the price and quantity of the security being traded, and

any special conditions of the order." Minton US 6,014,643, col.10, lines 58-64);

~~receiving a first acknowledgment message indicating that the market center has filled at~~

~~least a portion of the trading order, the first acknowledgment message specifying the~~

~~internal trading order;~~

<u>assigning</u> ~~determining the external order identifier associated with the~~ <u>an</u> internal ~~order~~

identifier; ~~and generating a second acknowledgment message for communication to a~~

~~trader associated with the trading order, the second acknowledgment message~~

~~specifying the external order identifier and indicating that the market center has filled at~~

~~least a portion of~~ <u>to</u> the ~~trading~~ <u>first</u> order. ("If the security is traded on the individual

securities trading network, that information is denoted under the column labeled RMST.

A cusip number for each security is also provided. A security's cusip number is a unique

numerical identifier for a given security. Finally, the primary market in which the security

is traded is also displayed." Minton US 6,014,643, col.10, lines 32-37)

23-33. Cancelled.

As per claim 34 (New), Minton US 6,014,643 further discloses an apparatus of comprising:

a processor; and a memory, in which the memory stores instructions which, when executed by the processor, direct the processor to perform the method of claim 12. ("FIG. 1 depicts data processing system 20. Data processing system 20 is capable of executing the computer program which allows users to buy and sell securities from other users over an individual security trading network. (The individual security trading network will be discussed in a subsequent portion of this specification.) Data processing system 20 can be the data processing system from which a user can buy and sell securities from other users attached to the individual security trading network; or it can function as a server for the individual security trading network. Generally, when functioning as a server, data processing system 20 will have more processing power, storage capability, memory, etc. than when it is functioning as a user's data processing system." Minton US 6,014,643, col.3, line 65-col. 4, line 11)

Claims 35-49 are rejected under the same rationale as claim 34.

35. (New) The apparatus of claim 34, in which the memory stores instructions which, when executed by the processor, direct the processor to perform the method of claim 13.

36. (New) The apparatus of claim 34, in which the memory stores instructions which, when executed by the processor, direct the processor to perform the method of claim 14. (This claim is rejected under the same rationale as claim 34.)

37. (New) The apparatus of claim 36, in which the memory stores instructions which, when executed by the processor, direct the processor to perform the method of claim 15.

38. (New) The apparatus of claim 37, in which the memory stores instructions which, when executed by the processor, direct the processor to perform the method of claim 17.

39. (New) The apparatus of claim 36, in which the memory stores instructions which, when executed by the processor, direct the processor to perform the method of claim 15.

40. (New) The apparatus of claim 34, in which the memory stores instructions which, when executed by the processor, direct the processor to perform the method of claim 21.

41. (New) The apparatus of claim 34, in which the memory stores instructions which, when executed by the processor, direct the processor to perform the method of claim 22.

42. (New) An article of manufacture comprising:

a storage medium, in which the storage medium stores instructions which, when executed by a processor, direct the processor to perform the method of claim 12.

43. (New) The article of manufacture of claim 42, in which the storage medium stores instructions which, when executed by the processor, direct the processor to perform the method of claim 13.

44. (New) The article of manufacture of claim 42, in which the storage medium stores instructions which, when executed by the processor, direct the processor to perform the method of claim 14.

45. (New) The article of manufacture of claim 44, in which the storage medium stores instructions which, when executed by the processor, direct the processor to perform the method of claim 15.

46. (New) The article of manufacture of claim 45, in which the storage medium stores instructions which, when executed by the processor, direct the processor to perform the method of claim 17.

47. (New) The apparatus of claim 44, in which the memory stores instructions which, when executed by the processor, direct the processor to perform the method of claim 18.

48. (New) The apparatus of claim 42, in which the memory stores instructions which, when executed by the processor, direct the processor to perform the method of claim 21.

49. (New) The apparatus of claim 42, in which the memory stores instructions which, when executed by the processor, direct the processor to perform the method of claim 22.

Response to Arguments

8.   Applicant's arguments with respect to claims 7/21/2008 have been considered, but are moot in view of the new ground(s) of rejection.

Conclusion

9.   The following is prior art made of record and not relied upon is considered

pertinent to applicant's disclosure:

Furbush (2002/0073016 A1) teaches an order execution processing for automated

market system.

Waelbroeck (2004/0034591 A1) teaches a method and system for managing distributed

trading data.

Conklin (US 6,141,653) teaches a system for interactive, multivariate negotiations over

a network.

Masch (US 5,930,762) teaches a computer aided risk management in multiple-

parameter physical systems.

Breen (US 6,615,188 B1) teaches an online trade aggregating system.

Young (US 6,393,409 B2) teaches a computer method and apparatus for optimizing

portfolios of multiple participants.

Shepherd (US 5970479) a method and apparatus relating to the formulation and trading

of risk management contracts.

Conclusion

10.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

11.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Gerald C. Vizvary whose telephone number is 571-270-

3268. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ella Colbert can be reached on 571-272-6741. The fax phone number for

the organization where this application or proceeding is assigned is 571-270-4268.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ella Colbert/
Primary Examiner, Art Unit 3696

Gerald Vizvary
Patent Examiner, A.U. 3696
November 16, 2008